



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

Governor's Office of Planning & Research

**Jul 10 2023**

**STATE CLEARINGHOUSE**

Via Electronic Mail Only

July 10, 2023

Darby Whipple  
City of Los Angeles, Department of City Planning  
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**Subject: 457, 461, 465, & 467 West Del Norte Street Project, Mitigated Negative Declaration, SCH #2023060245, City of Los Angeles, Los Angeles County**

Dear Mr. Whipple,

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the City of Los Angeles (City) for the 457,461,465, & 467 West Del Norte Street Project (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

#### **CDFW'S ROLE**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

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CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project Applicant obtain appropriate authorization under the Fish and Game Code.

## PROJECT DESCRIPTION AND SUMMARY

**Objective:** The Project proposes the construction of four single-family residences on a 0.41-acre property that is divided into four vacant lots. The first residential development will be a 2,085 square-foot three story residence with a detached two-car carport on a 4,617 square-foot lot. The second residential development will be a 2,100 square-foot three story residence with a detached two-car carport on a 4,543 square-foot lot. The third residential development will be a 2,100 square-foot three story residence with a detached two-car car port on a 4,471 square-foot lot. The fourth residential development will be a 2,199 square-foot three story residence with a detached two-car carport on a 4,399 square foot lot. The proposed Project will also consist of improvements such as curb and gutters, retaining walls, driveways, fencing, and utilities. Prior to construction of residences, hillside grading and removal of trees and shrubs will occur throughout the Project site.

**Location:** The Project site encompasses four vacant lots located at 457, 461, 465, and 467 West Del Norte Street in the City of Los Angeles, Los Angeles County. The Project site is bound by Glenalbyn Drive to the north, West Avenue 37 to the east, Del Norte Street to the west, and Isabel Street to the south. The Assessor's Parcel Numbers associated with the Project site include 5451-024-022, 5451-024-023, 5451-024-024, and 5451-024-025.

## COMMENTS AND RECOMMENDATIONS

CDFW offers comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions

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below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

### **Specific Comments**

#### **Comment #1: Impacts on southern California black walnut (*Juglans californica*) and coast live oak (*Quercus agrifolia*)**

**Issue:** The MND does not provide mitigation measures to ensure that southern California black walnut trees and coast live oak trees are not overcrowded and can successfully grow within the Project site.

**Specific impacts:** The Project proposes to replant a total of 68 trees and 4 shrubs in small planting areas throughout the Project site. Without sufficient space for these trees and shrubs to grow, the outcome may lead to stunted growth or mortality of replacement vegetation.

**Why impacts would occur:** The proposed Project intends to mitigate for the removal of 13 southern California black walnut, one coast live oak, and two Toyon shrubs (*Heteromeles arbutifolia*), and 12 trees of varying species that the City has deemed as significant trees. The MND states that 64 southern California black walnut, four coast live oak trees, and eight toyon shrubs will be replanted throughout the Project site. Based on Appendix E. Protected Tree Plan, the replacement trees appear to be planted in tight areas surrounding the proposed residences. CDFW acknowledges that the protected tree plan may be a draft rendering. Nevertheless, the plan as it is presented depicts that the replacement trees will be grouped together in a manner that may not be conducive for optimal growth and survival. Southern California black walnut trees are known to vary in height from 50 to 75 feet tall and have a width of 50 to 75 feet (CNPS 2023b). Coast live oak trees are known to range in height from 25 to 82 feet tall and 15 to 35 feet in width (CNPS 2023c). In addition to the large size and width of these trees, the root system of a southern California black walnut tree is extensive, often with a deep taproot (Esser 1993). Planting southern California black walnut trees close together may not provide adequate spacing to accommodate growth horizontally, vertically, and laterally below ground.

The MND provides mitigation measure, *Mitigation Measures (Preservation of Protected and Significant Trees)*, which outlines actions that would apply towards protected trees that will remain on site. This mitigation measure does

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not apply to the trees that will serve as mitigation for the Project's impact. The mitigation measure, *Mitigation Measures (Preservation of Protected and Significant Trees)*, may not satisfy the CEQA standards for deferred mitigation [CEQA Guidelines, § 15126.4(a)(1)(B)]. The mitigation measure has yet to adopt specific performance standards the mitigation will achieve nor identifies type of potential action(s) that can achieve those performance standards. For example, there is no information on survivorship goals, minimum maintenance requirements, monitoring activities, or contingency measures if replanting fails. Without a sufficient management and monitoring plan, the replanted trees may result in overcrowding in certain areas, stunted growth, competition with exotic vegetation, and tree mortality.

**Evidence impacts would be significant:** Coast live oak and southern California black walnut trees serve several important ecological functions such as protecting soils from erosion and land sliding; regulating water flow in watersheds; and maintaining water quality in streams and rivers. Oak trees alone provide nesting and perching habitat for approximately 170 species of birds (Griffin and Muick 1990). Oak woodlands also have higher levels of biodiversity than any other terrestrial ecosystem in California (Block et al. 1990). Aside from providing nesting habitat, southern California black walnut trees provide acorns as a food source to a variety of wildlife species. In addition, the southern California black walnut is a species of local significance; a species of limited distribution; and a species that is moderately threatened in California with a rarity ranking of S3.2 (CNPS 2023a). Southern California black walnut trees and California walnut groves meet the definition of endangered, rare, or threatened Species under CEQA (CEQA Guidelines, § 15380). Moreover, oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360- 1372) and Public Resources Code section 21083.4 due to the historic and on-going loss of these resources. Currently, both species have a reduced range due to various factors including development and are often vulnerable to environmental effects of projects.

Inadequate or lack of avoidance, minimization, and mitigation measures for impacts to special status plant species, such as oak and walnut, will result in the Project continuing to have an adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

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### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends the Project Applicant retain a certified arborist to draft a Tree Planting and Maintenance Plan (TPMP) and submit it to the City for approval prior to the City issuing a Tree Removal Permit. The certified arborist should be familiar with southern California black walnut and coast live oak to appropriately space the trees to accommodate growth horizontally, vertically, and laterally below ground. The TPMP should provide a planting schedule with planting instructions specifying appropriate spacing between each replacement tree. The TPMP should also outline how the trees planted for mitigation will be monitored, maintained, and inspected. Maintenance activities outlined in the TPMP should consist of measures pertaining to control of exotic vegetation, protection from herbivory, irrigation schedule, and protection during future maintenance activities (i.e., fuel modification). Moreover, the TPMP should provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). CDFW recommends long-term monitoring, maintenance, and inspection until all planted trees survive to produce reproductive structures.

**Mitigation Measure #2:** If the City observes changes, stress, or failure of planted southern California black walnut trees or coast live oak trees, CDFW recommends consulting with a certified arborist or tree specialist to assess the tree and provide specific recommendations. There should be no net loss of southern California black walnut trees or coast live oak trees throughout the Project site. If any replacement trees fail, CDFW recommends the Project Applicant replace those trees with the same species.

### **Comment #2: Spreading Invasive Pests and Diseases**

**Issue:** Project activities will result in tree removal which may serve as a host for invasive pests and diseases.

**Specific impacts:** The Project may result in the spread of tree insect pests and diseases into areas not currently exposed to these stressors. This could result in expediting the loss of southern California black walnut and coast live oak trees within and adjacent to the Project site. Loss of trees may result in loss of foraging and perching habitat for mammals, birds, and raptors dependent on California walnut trees and oak trees within the retained area of the Project site.

**Why impacts would occur:** The Project may remove trees that could host diseases and pests. One such pathogen is *Phytophthora ramorum* which causes

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a disease known as sudden oak death. Sudden oak death has become the most common cause of mortality of oak and other native trees (Phytosphere 2015). Mortality rates of oak trees are greater than 50 percent in some areas impacted by sudden oak death (Phytosphere 2012). Coast live oak trees also serve as a suitable host to the polyphagous shot hole borer (*Euwallacea* spp.). The polyphagous shot hole borer has a symbiotic relationship with a fungus that results in a tree disease known as Fusarium dieback. The distribution of the polyphagous shot hole borer has been recorded throughout southern California including Los Angeles County (UCR 2023a). In addition to the polyphagous shot hole borer, the goldspotted oak borer (*Agrilus auroguttatus*) is a buprestid beetle that has been associated with attacking oak trees and is responsible for major oak mortality within southern California (UCR 2023b). Moreover, thousand cankers disease is another type of tree disease that is the result of an insect-fungus complex caused by the walnut twig beetle (*Pityophthorus juglandis*) and a canker fungus (*Geosmithia morbida*). Thousand cankers disease is known to primarily impact black walnut trees (TCD 2023). Additionally, southern California black walnut trees are highly susceptible to *Phytophthora* spp. crown rot (Esser 1993). In addition to direct impacts to trees, tree dieback can have cascading impacts on the habitat and ecosystem, particularly avian distribution, and abundance (Monahan and Koenig 2005).

Diseases such as sudden oak death can spread via equipment and transport of infected material. These fragments can be spread to new locations if equipment and tools are not disinfected or cleaned before moving to the next work location. Infected material that is transported off site for disposal may expose trees and plant communities to pests and disease. This could result in expediting the loss of walnut trees, oak trees, and other native trees and plant communities within and adjacent to the Project site.

**Evidence impacts would be significant:** The Project may have a substantial adverse effect on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by CDFW that may be susceptible to insect and disease pathogens. Southern California black walnut trees and California walnut groves meet the definition of endangered, rare, or threatened Species under CEQA (CEQA Guidelines, § 15380). Oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360- 1372) and Public Resources Code section 21083.4. Moreover, southern California black walnut trees and coast live oak trees are designated as protected trees per [Ordinance No. 186873](#) (CLA 2020).



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### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #3:** CDFW recommends that the MND incorporate a measure to mitigate the spread of invasive pests and diseases by implementing the following:

- 1) Prior to tree removal, a certified arborist should evaluate trees for infectious tree diseases including but not limited to sudden oak death, thousand cankers disease, and Fusarium dieback disease.
- 2) Prior to tree removal, a certified arborist should evaluate trees for pests including but not limited to thousand canker fungus, walnut twig beetle, polyphagous shot hole borer, and goldspotted oak borer.
- 3) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist should prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from the Project site without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.
- 4) If possible, all tree material, especially infected tree material, should be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

### **Additional Recommendations**

**Nesting Birds.** The MND provides Regulatory Compliance Measures (Nesting Native Birds, Hillside, or Rural Areas) to address the Project's impact on nesting birds. However, the measure as it is currently presented is not sufficient to protect active nests that may be within the Project site. In order to reduce the Project's impact on nesting birds, CDFW recommends revising Regulatory Compliance Measures (Nesting Native Birds, Hillside, or Rural Areas) by incorporating the underlined language and removing the language with strikethrough:

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“• Ground disturbing activities and vegetation removal should be timed to occur between outside the bird nesting season (September 1 – January 31 January 1), outside of the typical nesting season for passerines (generally February 1 – September 15) and raptors (beginning as early as January 1).

- If ground disturbing activities or vegetation removal are scheduled during the bird nesting season (~~February 1 – August 31~~) a preconstruction survey for nesting birds shall be conducted within 72 hours prior to those activities. The survey shall be conducted by a qualified biologist with prior experience conducting nesting bird surveys for construction projects.

- If active nests are found the biologist will map the location and document the species and nesting stage. A no-work buffer will be established around the active nest as determined by the qualified biologist and based on the species sensitivity to disturbance and the type and duration of the disturbance. A minimum 300-foot no disturbance buffer shall be placed around each active bird nest. For raptors, the no disturbance buffer shall be expanded to 500 feet and 0.5 mile for special status species (e.g., CESA-listed), if feasible. Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, area sensitivity, and adherence to no disturbance buffers. No construction activities shall occur within the no-work buffer until the biologist has determined the nest is no longer active.”

**Fencing.** The proposed Project plans to install fencing within the Project site. To protect wildlife, particularly birds and raptors during Project construction, CDFW recommends the Project use construction fencing and materials that are not harmful to wildlife. The City should prohibit the use of materials that should include, but are not limited to, spikes, glass, razors, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor’s talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used for the Project should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.

**Data.** CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the



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CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2023a). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2023b).

**Mitigation and Monitoring Reporting Plan.** CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

### **Filing Fees**

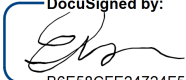
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final (Cal. Code Regs., tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

### **Conclusion**

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at [Julisa.Portugal@wildlife.ca.gov](mailto:Julisa.Portugal@wildlife.ca.gov) or (562) 330 - 7563.

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Sincerely,

DocuSigned by:  
  
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Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region

ec: CDFW

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## Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Project's environmental document.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM) or Recommendation (REC)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1- Tree Planting and Maintenance Plan</b>	The Project Applicant shall retain a certified arborist to draft a Tree Planting and Maintenance Plan (TPMP) and submit it to the City for approval prior to the City issuing a Tree Removal Permit. The certified arborist shall be familiar with southern California black walnut and coast live oak to appropriately space the trees to accommodate growth horizontally, vertically, and laterally below ground. The TPMP shall provide a planting schedule with planting instructions specifying appropriate spacing between each replacement tree. The TPMP shall also outline how the trees planted for mitigation will be monitored, maintained, and inspected. Maintenance activities outlined in the TPMP shall consist of measures pertaining to control of exotic vegetation, protection from herbivory, irrigation schedule, and protection during future maintenance activities (i.e., fuel modification). Moreover, the TPMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Long-term monitoring, maintenance, and inspection shall occur until all planted trees survive to produce reproductive structures	Prior to finalizing Project's CEQA Document/ During and After Project activities	Arborist/ City/ Project Applicant

<p><b>MM-BIO-2- Tree Mortality</b></p>	<p>If the City observes changes, stress, or failure of planted southern California black walnut trees or coast live oak trees, the City shall consult with a certified arborist or tree specialist to assess the tree and provide specific recommendations. There shall be no net loss of southern California black walnut trees or coast live oak trees throughout the Project site. If any replacement trees fail, the Project Applicant replace those trees with the same species.</p>	<p>During/After ground-disturbing activities or vegetation removal</p>	<p>City / Project Applicant</p>
<p><b>MM-BIO-3- Invasive Pests and Diseases</b></p>	<p>The MND shall include a measure to mitigate the spread of invasive pests and diseases by implementing the following:</p> <ol style="list-style-type: none"> <li>1) Prior to tree removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to sudden oak death, thousand cankers disease, and Fusarium dieback disease.</li> <li>2) Prior to tree removal, a certified arborist shall evaluate trees for pests including but not limited to thousand canker fungus, walnut twig beetle, polyphagous shot hole borer, and goldspotted oak borer.</li> <li>3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools shall be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after</li> </ol>	<p>Prior to finalizing Project's CEQA Document/ During Project activities</p>	<p>City/ Arborist</p>

	use to prevent spread of pathogens to new areas.		
<b>MM-BIO-4- Nesting Birds</b>	<ul style="list-style-type: none"> <li>• Ground disturbing activities and vegetation removal shall be timed to occur between September 1 - January 1, outside of the typical nesting season for passerines (generally February 1 – September 15) and raptors (beginning as early as January 1).</li> <li>• If ground disturbing activities or vegetation removal are scheduled during the bird nesting season a preconstruction survey for nesting birds shall be conducted within 72 hours prior to those activities. The survey shall be conducted by a qualified biologist with prior experience conducting nesting bird surveys for construction projects.</li> <li>• If active nests are found the biologist shall map the location and document the species and nesting stage. A no-work buffer shall be established around the active nest as determined by the qualified biologist and based on the species sensitivity to disturbance and the type and duration of the disturbance. A minimum 300-foot no disturbance buffer shall be placed around each active bird nest. For raptors, the no disturbance buffer shall be expanded to 500 feet and 0.5 mile for special status species (e.g., CESA-listed), if feasible. Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, area sensitivity, and adherence to no disturbance buffers. No construction activities shall occur within the</li> </ul>	Prior to and during ground-disturbing activities or vegetation removal	Biologist



	no-work buffer until the biologist has determined the nest is no longer active.		
<b>REC -1- Fencing</b>	The proposed Project plans to install fencing within the Project site. To protect wildlife, particularly birds and raptors during Project construction, CDFW recommends the Project use construction fencing and materials that are not harmful to wildlife. The City should prohibit the use of materials that should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used for the Project should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.	Prior to ground-disturbing activities or vegetation removal	City/ Project Applicant
<b>REC- 2 - Data</b>	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations. Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms.	Prior to ground-disturbing activities or vegetation removal	Biologist

	<p>Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.</p>		
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